

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

JULIA JOHNSON, JAMES ALLEN)	C/A No. 4:11-2607-TLW-KDW
SANDERS, PAUL SEABURY,)	
MATTHEW SINCLAIR, CATHY)	
WILLIAMS, KENDRICKS DOUGLAS,)	
TAMMY MCCALL AND BARRY)	
ALFORD)	ORDER
Individually and on behalf of the class they)	
seek to represent,)	ACTION REQUIRED BY
)	PLAINTIFF PAUL SEABURY
Plaintiffs,)	
)	
vs.)	
)	
FLAKEBOARD AMERICA LIMITED,)	
)	
Defendant.)	

This matter is before the court on Plaintiffs' Counsel's Motion to Withdraw from Representation of Plaintiff Paul Seabury ("Motion"), in which Plaintiffs' Counsel ("Counsel") represents that, despite repeated requests by Counsel, Seabury has failed to communicate with Counsel. ECF No. 86. Counsel filed the Motion on August 31, 2012, indicating a copy of the Motion was mailed to Seabury on the same date. *Id.* ¶ 5. Seabury did not file a response to the Motion.¹

On September 25, 2012, the court noticed a hearing on the Motion to begin at 10:00 a.m. on October 10, 2012. ECF No. 88. As instructed by the court, Counsel provided the Clerk of Court with Seabury's last known mailing address and telephone number. A copy of the Notice of Hearing ("Notice") was sent to Seabury's last known address by regular and by certified mail, ECF No. 91, and Seabury acknowledged receipt of the Notice that was sent by certified mail, ECF No. 93. The Notice instructed Seabury to inform Counsel of a

¹ Defendants do not object to the Motion. See ECF No. 86 ¶ 4.

telephone number where he could be reached at the time of the October 10, 2012 hearing so that he could participate in that hearing. ECF No. 88. However, Seabury did not contact Counsel as instructed.

The court convened the October 10, 2012 telephone hearing, with Counsel and defense counsel participating. Seabury did not participate, and the court is unaware of any attempt made by Seabury to contact the court or to otherwise arrange to participate in the hearing. Nonetheless, before ruling on Counsel's Motion, the court issues this Order instructing Seabury to respond no later than October 19, 2012.

No later than October 19, 2012, Seabury is to contact the Clerk of Court *in writing* at the address provided below to inform the court of his position on Counsel's Motion and whether he wishes to continue to be a Plaintiff in this matter. To that end, Seabury is to advise which ONE of the following options regarding his participation in this action he prefers:

- (a) That he does not wish to continue to prosecute this matter and seeks to withdraw as a Plaintiff;
- (b) That he wishes to continue to prosecute this matter and has obtained other counsel;
- (c) That he wishes to continue to prosecute this matter and will cooperate with his current Counsel; or
- (d) That he wishes to continue to prosecute this matter and will represent himself.

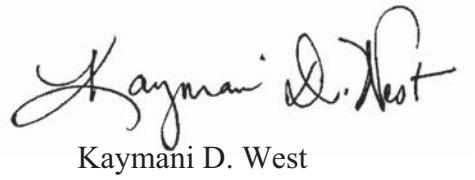
Seabury is to provide this information by mailing a document to the Clerk of Court, Post Office Box 2317, Florence, South Carolina 29503, that also includes the civil action number listed above (C/A No. 4:11-2607-TLW-KDW). Seabury is specifically advised that, should

he fail to respond adequately to the court by October 19, 2012, Counsel's Motion will be granted. Further, should Seabury fail to respond adequately, the undersigned may recommend that he be dismissed from this case as a Plaintiff, thereby ending his case with prejudice for failure to prosecute. *See Davis v. Williams*, 588 F.2d 69, 70 (4th Cir. 1978); Fed. R. Civ. P. 41(b).

The Clerk of Court is ordered to send a copy of this Order to Seabury at his last known address by certified mail and by regular mail.

IT IS SO ORDERED.

October 10, 2012
Florence, South Carolina

A handwritten signature in black ink, appearing to read "Kaymani D. West".

Kaymani D. West
United States Magistrate Judge